



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION
1350 MAIN STREET
SPRINGFIELD, MASSACHUSETTS 01103-1629

THOMAS F. REILLY
ATTORNEY GENERAL

September 16, 2005

(413) 784-1240
www.ago.state.ma.us

Frances Young, Town Clerk
5 School Street
Wenham, MA 01984

RE: **Wenham Annual Town Meeting of May 7, 2005 — Case # 3540**
Warrant Article # 10 (General)

Dear Ms. Young:

Article 10 - I return with the approval of this Office the amendments to the town by-laws adopted under this Article on the warrant for the Wenham annual town meeting that convened on May 7, 2005.

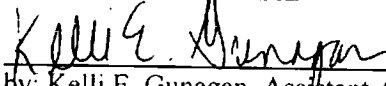
Note: Under G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of this section. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

If the Attorney General has disapproved and deleted one or more portions of any by-law or by-law amendment submitted for approval, only those portions approved are to be posted and published pursuant to G.L. c. 40, § 32. We ask that you forward to us a copy of the final text of the by-law or by-law amendments reflecting any such deletion. It will be sufficient to send us a copy of the text posted and published by the Town Clerk pursuant to this statute.

Nothing in the Attorney General's approval authorizes an exemption from any applicable state law or regulation governing the subject of the by-law submitted for approval.

Very truly yours,

THOMAS F. REILLY
ATTORNEY GENERAL


by: Kelli E. Gunagan, Assistant Attorney General
By-law Coordinator, Municipal Law Unit
1350 Main Street, 4th Floor
Springfield, MA 01103-1629
(413) 784-1240, x 117

enc.
pc: Town Counsel



Community Preservation Act--Community Preservation Comm.

To See if the town will vote to amend the Wenham Bylaws by adopting the following new Section XXI to be entitled "Community Preservation Committee," and to read as follows:

Section XXI. Community Preservation Committee

Chapter 1. Establishment

- (1) There is hereby established a Community Preservation Committee consisting of nine voting members pursuant to Massachusetts General Laws Chapter 44B. The Committee shall consist of the following members:
 - One member of the Historic District Commission as designated by the Commission
 - One member of the Housing Authority as designated by the Authority
 - One member of the Planning Board as designated by the Board
 - One member of the Recreation Commission as designated by the Commission
 - One member of the Conservation Commission as designated by the Commission
 - Four at-large members to be designated by the Board of Selectmen
- (2) The term for the first-appointed Community Preservation Committee will begin on January 1, 2006, ending on May 31, 2008. Subsequent terms will begin on June 1 of each year and will be for two years. Any vacancy on the Community Preservation Committee shall be filled by the commission, authority or board that designated the member who creates the vacancy by designating another member in accordance with Section (1) above for the unexpired term.
- (3) Should any commission, authority or board designating a member for the Community Preservation Committee cease to exist for whatever reason the Board of Selectmen will determine the appropriate alternative designating commission, authority or board.

Chapter 2. Duties

- (1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with town boards and others including, but not limited to, the Historical Commission, the Housing Authority, the Planning Board, the Conservation Commission, and the Recreation Commission in conducting such studies. As part of its studies the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly, including on the Town's web page, and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town. The Committee will file an annual report on its activities to the Town Clerk.
- (2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, rehabilitation, restoration and preservation of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings, or construction of new buildings on previously developed sites.

...The Community Preservation Committee may include in its recommendations to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation, but for which sufficient funds are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.

Chapter 3. Requirements for a quorum and cost estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Meetings will be held in accordance with the open meeting law. Recommendations to the Town Meeting shall include their anticipated costs.

Chapter 4. Amendments

The Community Preservation Committee shall, from time to time, review the administration of this By-law, making recommendations, as needed, for changes in the By-law and in administrative practice to improve the operations of the Community Preservation Committee. The first review shall be completed at least by November 1, 2008 and subsequent reviews shall be completed in no more than five-year intervals. This Bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not be in conflict with Chapter 44B of the Massachusetts General Laws.

Chapter 5. Severability

In case any section, paragraph or part of this By-law be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect

Chapter 6. Effective Date

This vote shall take effect and this Bylaw shall be submitted to the Attorney-General of the Commonwealth only upon certification that a majority of voters have approved a ballot question accepting sections 3 to 7, inclusive, of Massachusetts General Laws Chapter 44B. Upon approval of this Bylaw by the Attorney General of the Commonwealth, the Board of Selectmen shall request the Historic District Commission, the Housing Authority, the Planning Board, the Conservation Commission, and the Recreation Commission to designate a member to serve on the Community Preservation Committee. The Board of Selectmen will designate four at-large members of the Community Preservation Committee.

Or take any other action relative thereto.

MOTION THE BOARD OF SELECTMEN MOVES THAT THE TOWN VOTE TO AMEND THE WENHAM BYLAWS BY ADOPTING SECTION XXI TO BE ENTITLED "COMMUNITY PRESERVATION COMMITTEE," WHICH INCLUDES CHAPTERS 1 THROUGH 6 OUTLINING THE ESTABLISHMENT, DUTIES, REQUIREMENTS FOR A QUORUM AND COST ESTIMATES, AMENDMENTS, SEVERABILITY AND EFFECTIVE DATE AND ALL SECTIONS RELATIVE THERETO.

MOVED AND SECONDED BY THOMAS TANOUS, SELECTMAN

SIMPLE MAJORITY REQUIRED
TOTAL REGISTERED VOTERS: 2557
QUORUM: 5% OF 2557 = 128
PRESENT: 222

VOTER CARDS
NO TELLERS

MOTION DECLARED COMFORTABLY PASSED

ATTEST:

FRANCES HARTE YOUNG
Frances Harte Young, Wenham Town Clerk

